



## **BEFORE THE MONTGOMERY COUNTY ETHICS COMMISSION**

### **Waiver No. 05-11-008**

For one year after leaving County employment, a former employee must not enter into any employment agreement with any person or business if, during the prior three years, the employee significantly participated in any procurement or other contractual activity concerning a contract with that person or business. § 19A-13(b). Arthur G. Balmer, Chief of the Solid Waste Services Division, seeks a waiver of this prohibition in order to pursue post-County employment with any of the following three major waste-to-energy companies or their subsidiaries: Covanta Holding Corporation (with 31 facilities), Waste Management, Inc. (with 17 facilities), and Veolia Environment (with 7 facilities). The Commission will waive the prohibitions of § 19A-13(b) because the proposed employment is not likely to create an actual conflict of interest so long as Mr. Balmer does not work on any project in the State of Maryland.

### **Facts**

Arthur G. Balmer has worked for the County since June 1987, and has served as the Chief of the Solid Waste Services Division in the Department of Public Works and Transportation since October 1994. The Division manages the County's solid waste. This includes management of contracts for trash collection in the down-County area and curbside recycling for single-family homes. The Division also oversees operation of the Solid Waste Transfer Station (where local citizens and haulers bring trash, recyclables, and yard trim for delivery to its corresponding facility for processing), the nearby Materials Recovery Facility (the Recycling Center), and the County's two closed landfills (Gude and Oaks). The Division also oversees the operation and maintenance of the Resource Recovery Facility (where waste is transported, burned at extremely high temperatures, and the heat used to generate energy in the form of electricity or steam) and the Composting Facility (where yard trim is brought to be composted and monitored; after composting, it is screened, bagged, and sold under the brand name of Leafgro).

Mr. Balmer reports that his oversight responsibilities have included almost all of the engineering and construction companies engaged in construction and waste management in Montgomery County and nationally. He has had responsibility for negotiating many multi-million dollar contracts with the Northeast Maryland Waste Disposal Authority (NEMWDA), CSX, PEPCO, Mirant, Maryland Environmental Service, and numerous other entities including most of the major private solid waste companies. Mr. Balmer also serves as the County's representative on the NEMWDA board.

### **Anaylsis**

Section 19A-13(b) provides that, for one year after leaving County employment, a former employee must not enter into any employment agreement with any person or business if, during the prior three years, the employee significantly participated in any procurement or other contractual activity concerning a contract with that person or business. Mr. Balmer acknowledges that he has significantly participated<sup>1</sup> in contractual activity with two of the three companies he would like to pursue post-County employment with: Covanta and Waste Management. Thus, he requires a waiver as to those two companies. In support of his waiver request Mr. Balmer writes that he would agree to a prohibition against working on any project in the State of Maryland. According to Mr. Balmer, the consolidation of companies over the last few years severely restricts his opportunities for post-County employment, absent a waiver.

The Commission believes that a waiver is appropriate to allow Mr. Balmer to pursue employment with Convanta and Waste Management. The Commission may waive § 19A-13(b) if it finds that the proposed employment is not likely to create an actual conflict of interest. The Commission finds that Mr. Balmer's proposed employment with Convanta or Waste Management is not likely to create an actual conflict of interest if he does not work on any project within the State of Maryland. Under these circumstances, a waiver is appropriate.

### **Conclusion**

Mr. Balmer may work for any of the following three major waste-to-energy companies or their subsidiaries: Covanta Holding Corporation (with 31 facilities), Waste Management, Inc. (with 17 facilities), and Veolia Environment (with 7 facilities). As provided in § 19A-13(a), Mr. Balmer must not work for any of these entities on the same specific matter for 10 years after the last date he significantly participated in that matter as a public employee.<sup>2</sup>

FOR THE COMMISSION:



November 18, 2005

---

Date

---

Richard N. Reback, Chair

---

<sup>1</sup> Significant participation means making a decision, approval, disapproval, recommendation, rendering of advice, investigation, or similar action taken as an officer or employee. Significant participation ordinarily does not include program or legislative oversight, or budget preparation, review, or adoption. § 19A-13(c).

<sup>2</sup> The Ethics Commission has narrowly interpreted the term "specific matter." See *Waiver No. 05-04-005* and cases cited therein.